

SENATE BILL 692

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2004 Regular Session
4r1547
CF 4r1485

By: **Senator Gladden**
Introduced and read first time: February 6, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 24, 2004

CHAPTER _____

1 AN ACT concerning

2 **Homeowners Associations - Recorded Covenants or Restrictions - Deletion**
3 **of Ownership Restrictions Based on Race or Religion, Religious Belief, or**
4 **National Origin**

5 FOR the purpose of authorizing a homeowners association to delete a recorded
6 covenant or restriction that restricts ownership of property based on race ~~or~~,
7 religious belief, or national origin if a certain percentage of owners agree to the
8 deletion or as provided in certain deeds or declarations under certain
9 circumstances; requiring the governing body of a homeowners association to
10 record with a certain clerk of the court a ~~certain~~ an amendment to certain deeds
11 and other declarations of certain property ~~stating that a certain percentage of~~
12 ~~lot owners have agreed to~~ that provides for the deletion of a certain recorded
13 covenant or restriction under certain circumstances; ~~specifying that certain~~
14 ~~provisions apply to covenants and restrictions even if the covenant or restriction~~
15 ~~is part of a uniform general scheme or plan of development providing for the~~
16 application of this Act; and generally relating to recorded covenants or
17 restrictions of a homeowners association that restrict ownership on the basis of
18 race ~~or~~, religious belief, or national origin.

19 BY adding to
20 Article - Real Property
21 Section 11B-113.1
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2003 Supplement)

1

Preamble

2 WHEREAS, There exists in Maryland property burdened by restrictive
3 covenants based on race ~~or~~ religious belief, or national origin that run with the land;
4 and

5 WHEREAS, The Supreme Court in Shelley v. Kraemer, 334 U.S. 1 (1948), held
6 that judicial enforcement of a restrictive covenant based on race would constitute
7 state action, and therefore would violate the Fourteenth Amendment to the U.S.
8 Constitution; and

9 WHEREAS, The federal Fair Housing Act prohibits discrimination in the sale,
10 rental, and financing of dwellings based on race, religion, sex, handicap, familial
11 status, or national origin; and

12 WHEREAS, Under common law, unless the covenants or other restrictions
13 expressly provide to the contrary, covenants that run with the land may only be
14 removed by a unanimous vote of the land owners of each parcel of land burdened or
15 benefitted by the covenant or other restrictions; and

16 WHEREAS, In order to facilitate the removal of restrictive covenants based on
17 race ~~or~~ religious belief, or national origin, a change in common law regarding the
18 removal or alteration of such covenants would be beneficial; now, therefore,

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21

Article - Real Property

22 11B-113.1.

23 (A) THIS SECTION APPLIES TO ANY RECORDED COVENANT OR RESTRICTION
24 THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~ RELIGIOUS BELIEF, OR NATIONAL
25 ORIGIN, INCLUDING A COVENANT OR RESTRICTION THAT IS PART OF A UNIFORM
26 GENERAL SCHEME OR PLAN OF DEVELOPMENT.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
28 HOMEOWNERS ASSOCIATION MAY DELETE A RECORDED COVENANT OR
29 RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~ RELIGIOUS BELIEF,
30 OR NATIONAL ORIGIN FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN
31 THE DEVELOPMENT IF AT LEAST 85% OF THE LOT OWNERS IN THE DEVELOPMENT
32 AGREE TO THE DELETION OF THE RECORDED COVENANT OR RESTRICTION FROM
33 THE DEEDS OR OTHER DECLARATIONS.

34 (C) IF THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN THE
35 DEVELOPMENT EXPRESSLY PROVIDE FOR A METHOD OF AMENDMENT OR DELETION
36 OF A RECORDED COVENANT OR RESTRICTION, A RECORDED COVENANT OR
37 RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~ RELIGIOUS BELIEF,
38 OR NATIONAL ORIGIN MAY BE DELETED AS PROVIDED FOR IN THE DEEDS OR
39 DECLARATIONS OR IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

1 (D) AFTER THE LOT OWNERS IN THE DEVELOPMENT AGREE TO THE
2 DELETION OF A RECORDED COVENANT OR RESTRICTION THAT RESTRICTS
3 OWNERSHIP BASED ON RACE ~~OR~~ RELIGIOUS BELIEF, OR NATIONAL ORIGIN AS
4 PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF THE
5 HOMEOWNERS ASSOCIATION SHALL RECORD WITH THE CLERK OF THE COURT IN
6 THE JURISDICTION WHERE THE DEVELOPMENT IS LOCATED AN AMENDMENT TO
7 THE DEEDS OR OTHER DECLARATIONS THAT INCLUDE THE RECORDED COVENANT
8 OR RESTRICTION, EXECUTED BY AT LEAST 85% OF THE LOT OWNERS IN THE
9 DEVELOPMENT, THAT PROVIDES FOR THE DELETION OF THE RECORDED COVENANT
10 OR RESTRICTION FROM THE DEEDS OR DECLARATIONS OF THE PROPERTY IN THE
11 DEVELOPMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.